



**MILPITAS CITY COUNCIL MEETING AGENDA
OCTOBER 18, 2005**

**6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD**

SUMMARY OF CONTENTS

I. ROLL CALL (6:00 p.m.)

II. ADJOURN TO CLOSED SESSION

**CONFERENCE WITH LABOR NEGOTIATORS – COLLECTIVE BARGAINING
(Pursuant to California Government Code Section 54957.6)**

City Negotiators: Art Hartinger, Ed Kreisberg, Carmen Valdez

Employee Organizations: Milpitas Police Officers Association (MPOA), International Association of Firefighters (IAFF), Protech

Under Negotiation: Wages, Hours, Benefits, Working Conditions

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

(Pursuant to Government Code Section 54956.8)

Property: 110 Meadowland Dr., Milpitas, California

Agency Negotiators: City of Milpitas (Steve Mattas). Negotiating Party: Williamson / Wilson

Under negotiation: Terms and Conditions for Disposition of property

III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote on abstention of each member present

IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)

V. INVOCATION (Mayor Esteves)

VI. APPROVAL OF MINUTES (October 4, 2005)

VII. SCHEDULE OF MEETINGS

VIII. PRESENTATIONS

Proclamations

Help Mentally Disabled People Days, Knights of Columbus – Milpitas Council #5796

Help Mentally Disabled People Days, Knights of Columbus – St. Elizabeth Council #8747

YWCA of Silicon Valley "Week Without Violence" – October 16-22, 2005

IX. CITIZENS FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

- X. ANNOUNCEMENTS**
- XI. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XII. APPROVAL OF AGENDA**
- XIII. CONSENT CALENDAR (Items with Asterisks)**
- XIV. PUBLIC HEARINGS**
- 1. Approval of Major Tentative Map Amendment No. TM2005-1 to modify Conditions of Approval Nos. 69 (Streetlight fixtures) and 86 (Recycled Water) of the recently approved KB Homes Development located on the east and west sides of South Abel Street (Staff Contact: Staci Pereira, 586-3278)**
 - 2. Consider Plan Amendment To Amend Chapter 4.4, Water Quality And Conservation, And Chapter 4.9 D, Open Space/Conservation Principles And Policies (Water Quality And Conservation) To Reflect The Requirements Of The City's National Pollutant Discharge Elimination System (NPDES) Permit As Revised In 2001) (Staff Contact: Dennis Carrington, 586-3275)**
- XV. UNFINISHED BUSINESS**
- * 3. Deny Marquee Request from Milpitas Rotary Club (Staff Contact: Renee Lorentzen, 586-3286)**
- XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**
- RA1. Call to Order by the Mayor/Chair**
- RA2. Roll Call**
- RA3. Approval of Minutes (October 4, 2005)**
- RA4. Approval of Agenda and Consent Calendar**
- RA5. Review, Consider and Provide Staff Direction on Funding Concept for Landscaping and Maintenance of 237/I880 Interchange (Staff Contact: Greg Armendariz, 586-3317)**
- *RA6. Approval of 20% Low-Income Housing Set-Aside Funds for the Rehabilitation of Four (4) Existing Housing Units at 1129 & 1143 Edsel Drive and 1116 & 1124 Shirley Drive (Staff Contact: Felix Reliford; 586-3071)**
- *RA7. Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals: North Main Street Development Project Demolition and Abatement at 94 to 130 Winsor Street, East Garage Land Acquisition & Site Preparation, Project Nos. 8154 & 8169 (Staff Contact: Mark Rogge, 586-3403)**
- *RA8. Authorize City Manager To Execute Agreement Amendment: Olivia Chen Consultants, Berryessa Pump Station, Project No. 8138 (Staff Contact Doug De Vries, 586-3313)**
- RA9. Agency Adjournment**
- XVII. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES**

City Council

4. Mayor's Appointments to the Council Open Government Subcommittee (Contact: Mayor Esteves, 586-3029)
5. Approve Mayor's Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)

Parks, Recreation, and Cultural Resources Commission

- * 6. Approve Two (2) Organizational Youth Sport Grant Requests (Staff Contact: Kerrilyn Ely, 586- 3231)

XVIII. NEW BUSINESS

7. Approve Two Amendments to City Council Handbook by Motion (Staff Contact: Steve Mattas, 586-3040)
8. Approval of the Proposed Terra Serena (KB Homes) Public Park Equipment, Fixtures and Furnishings for Alvarez and Elm Parks (Staff Contact: Staci Pereira, 586-3278)
- * 9. Proposed 2006 Special Events Calendar (Staff Contact: Samu Tiumalu, 586-3222)
- * 10. Approve Encroachment Agreement Between the City of Milpitas and LSI Logic Corporation For the Installation of Fiber Optic Network Facilities Within Public Right of Way, Project No. 3137 (Staff Contact: Mehdi Khaila, 586-3327)
- * 11. Approve Proposed Changes to Recreation Services Program's Refund Policy (Staff Contact: Kathleen Yurchak, 586-3209)

XIX. ORDINANCES

- * 12. Waive Second Reading of the Title and Adopt Traffic Ordinance 43.201: Amendment to Traffic Code, to Change Speed Zones Boundaries and Speed Limits on Main St. Between Railroad Court and Montague Expressway (Staff Contact: Jaime Rodriguez, 586-3335)

XX. RESOLUTIONS

- * 13. Adopt a Resolution for Emergency Water Supply and Approve an Agreement for a Permanent Water Connection with Spring Valley Heights Association (Staff Contact: Darryl Wong, 586-3345)
- * 14. Adopt a Resolution of Intention to Vacate a Portion of Weller Lane and Winsor Street for Construction of the North Main Street Improvements, Library, and the Midtown East Parking Garage (Staff Contact: Steve Erickson, 586-3414)

XXI. BIDS AND CONTRACTS

- * 15. Award Construction Contract and Approve Budget Appropriation City Reservoir Evaluation & Upgrade, Project No. 7091, San Jose Water Company (Staff Contact: Doug De Vries 586-3313)
- * 16. Authorize City Manager to Approve Debris Box Agreement With Pagnini's Inc. (Staff Contact: Darryl Wong, 586-3345)

- * 17. **Extend the Coast Landscape Management, Inc. Contract for the McCarthy Ranch Assessment District for a Second Year (Staff Contact: Chris Schroeder, 586-3161)**

XXII. CLAIMS AND DEMANDS

- * 18. **Approve Payment Requests: Miscellaneous Vendors / Contractors (Staff Contact: Chris Schroeder, 586-3161)**

XXIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, NOVEMBER 1, 2005, AT 7:00 P.M.**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. **FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION** at the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
E-mail: rpioroda@ci.milpitas.ca.gov / Fax: 408-586-3030 / Phone: 408-586-3040

A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website www.ci.milpitas.ca.gov, select Open Government Ordinance under News Features.

BECOME A CITY COMMISSIONER!

Currently, we are recruiting for the following commissions:
Community Advisory Commission
Economic Development Commission (rep. for Hotel Industry)
Planning Commission

Applications are available online at www.ci.milpitas.ca.gov or outside the City Council Chambers. Contact the City Clerk's Office (586-3003) for information.

AGENDA REPORTS

XIV. PUBLIC HEARINGS

- 1. Approval of Major Tentative Map Amendment No. TM2005-1 to modify Conditions of Approval Nos. 69 (Streetlight fixtures) and 86 (Recycled Water) of the recently approved KB Homes Development located on the east and west sides of South Abel Street (Staff Contact: Staci Pereira, 586-3278)**

Background:

The two proposed amendments to the Major Tentative Map No. MA2003-4 to modify Conditions of Approval Nos. 69 and 86(a) relating to streetlights and the use of recycled water are no longer being pursued by the applicant at this time. This item may come back at a later date depending on the project budget for the public improvements associated with the project, and if so, it will be re-noticed to the public.

Recommendation: Move to table this item to a future meeting unknown at this time.

- 2. Consider General Plan Amendment To Amend Chapter 4.4, Water Quality And Conservation, And Chapter 4.9 D, Open Space/Conservation Principles And Policies (Water Quality And Conservation) To Reflect The Requirements Of The City's National Pollutant Discharge Elimination System (NPDES) Permit As Revised In 2001) (Staff Contact: Dennis Carrington, 586-3275)**

Background: Planning Commission Action

On September 28, 2005, the Planning Commission voted to recommend that the City Council amend the Water Quality and Conservation Element of the General Plan Element as shown in Attachment A to this report.

NPDES Permit. The City of Milpitas, along with twelve other South Bay cities, the County of Santa Clara, and the Santa Clara Valley Water District, jointly received a stormwater discharge permit from the California Regional Water Quality Control Board for the San Francisco Bay Region (RWQCB). This permit is known as the National Pollutant Discharge Elimination System (NPDES) permit, and it regulates stormwater runoff into the city storm drain system and local creeks, which ultimately empties into the San Francisco Bay. The NPDES Program is a requirement of the Federal Clean Water Act enforced by the Environmental Protection Agency (EPA). The ultimate purpose of the permit is to eliminate pollutants from the runoff waters entering the storm drain system and, ultimately, the San Francisco Bay.

Milpitas General Plan Open Space and Conservation Element

Existing language. Chapter 4.4, Water Quality and Conservation, and Chapter 4.9 d, Open Space/Conservation Principles And Policies (Water Quality and Conservation) in the existing Open Space and Conservation Element discuss the City's NPDES permit, the need to reduce water pollution and set forth guiding principles to protect and enhance the quality of water resources in the planning area and to promote conservation and efficiency in the use of water. These chapters also established an implementing policy that the City continues implementing the NPDES requirements of the Regional Water Quality Control Board.

Proposed language. The reissued 2001 permit added many requirements (C.3) that expand the role of the City in preventing water pollution. The City's Urban Runoff Management Plan and

the City's Annual Report to the Regional Water Quality Control Board (E-C.3.1.1) require that the city review the current general plan policies related to water quality and watershed protection and incorporate additional policies as needed to implement C.3 requirements. Dan Cloak, a consultant to the City of Milpitas and the author of the City's Stormwater C.3 Guidebook prepared the proposed text changes to the General Plan in order to comply with this requirement and to implement the City's NPDES Permit. Staff believes that the changes to the General Plan are necessary to provide the City the legal basis to perform the tasks necessary to implement the permit. Further, the General Plan Amendment would meet the Text changes to these sections of the Open Space and Conservation Element are proposed:

- Expand on the need to prevent water pollution and on the changes to the City's NPDES Permit that were made in 2001.
- Describe the City's Urban Runoff Management Plan and steps taken to implement the plan.
- Discuss the Milpitas Urban Runoff and Watercourse Protection Ordinance.
- Address the more stringent requirements of the 2001 reissued NPDES Permit (Provision C.3) to control runoff and runoff pollutants from new development. Applicable projects must include facilities to treat runoff before it is discharged from the site. The City is required to inspect these facilities and ensure that they are operated and maintained in perpetuity. The permit also requires that the City manage increases in peak runoff flow and increased runoff volume where necessary to prevent accelerated erosion of creek beds and banks.
- Address the City's Stormwater C.3 Guidebook and the procedures it describes.
- Discuss water conservation requirements of the NPDES Permit.
- Address recycled water requirements of the NPDES Permit.
- Expand upon existing Guiding Principles
- Expand upon existing Implementing Policies
- Establish Required Actions to implement the guiding principles and implementing policies

Proposed changes. The proposed changes to Chapter 4.4, Water Quality and Conservation, and Chapter 4.9 d, Open Space/Conservation Principles And Policies (Water Quality and Conservation) are as shown on Attachment A.

Recommendation: That the City Council amend the Open Space and Environmental Conservation Element of the General Plan as shown in Attachment A.

XV. UNFINISHED BUSINESS

- * 3. **Deny Marquee Request from Milpitas Rotary Club (Staff Contact: Renee Lorentzen, 586-3286)**

Background: Frank DeSmidt, Milpitas Rotary Club Member, on behalf of the Milpitas Rotary Club, has requested to place information on the City of Milpitas Marquee to advertise their upcoming "Texas Hold'Em" Tournament on Saturday, November 5, 2005. Proceeds from this tournament will go to Milpitas Public Schools, teacher, and student supplies. The following is the requested information to run October 17 – November 5, 2005:

Milpitas Rotary Club
Texas Hold 'Em Tourn.
Sat. Nov 5 at 6pm
www.rotaryholdem.com

In accordance with the City's Facility Manual Rules and Regulations, Item X. General Rules and Regulations, 9.3, states, City of Milpitas digital marquee is to be used for City sponsored activities only. Exceptions must be approved by City Council. To seek exception, applicant must submit a written request at least 45 days prior to the proposed date of use. Request will be reviewed by City Council at a regularly scheduled City Council meeting.

Recommendation: Based on previous Council direction regarding personal marquee requests, staff is recommending denying this request.

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (October 4, 2005)

RA4. Approval of Agenda and Consent Calendar

RA5. Review, Consider and Provide Staff Direction on Funding Concept for Landscaping and Maintenance of 237/I880 Interchange (Staff Contact: Greg Armendariz, 586-3317)

Background: Currently there are two major transportation projects in the City of Milpitas that are in need of landscaping work. The first project is the landscape work under the light rail viaduct (LRT) in the median of Great Mall Parkway, from Abel Street to San Jose City limits. This project is estimated at \$3.0 million and is to be cost shared between VTA and Milpitas. The second landscape project is the 237/I880 Interchange project and is estimated at \$3.5 million. These two projects are important because one is in the MidTown Specific Plan area and the other is a major gateway into the City of Milpitas.

Existing Funding Availability:

LRT/Great Mall Parkway median Landscape: VTA has provided the City with approximately \$1.5 million and the City's commitment is to fund the remaining \$1.5 million from RDA, which is programmed in the current CIP for 2009/2010.

237/I880 Interchange: This project is set up as a cooperative effort between VTA, Caltrans and the City. Due to the States' budgetary problems, the State project funding will not become available until 2009/10.

Funding Concept:

Caltrans, VTA and City staff have discussed a funding concept, which combines the available partial funding of the LRT median landscape project and partial funding for the 237/I880 interchange, to fully fund the 237/I880 interchange in the current fiscal year. The LRT funding would be replenished in 2009 with the STIP funding designated for 237/I880. This would allow the acceleration of the landscape improvements on 237/I880. VTA may be agreeable to the use of the \$1.5 million designated to the LRT project, if the City Council is interested in prioritizing 237/I880 over LRT Landscaping.

A staff report with additional information will be provided at the Council meeting.

Recommendation: Review, consider, and provide staff direction on funding concept for landscaping and maintenance of 237/I880 Interchange.

***RA6. Approval of 20% Low-Income Housing Set-Aside Funds for the Rehabilitation of Four (4) Existing Housing Units at 1129 & 1143 Edsel Drive and 1116 & 1124 Shirley Drive (Staff Contact: Felix Reliford; 586-3071)**

Background: At its meeting on December 17, 2002, the City Council approved Planned Unit Development (PUD) No. 2002-1 to permit the construction of six (6) new apartment units in conjunction with the renovation of four (4) existing units at 1129 & 1143 Edsel Drive and 1116

&1124 Shirley Drive. At the time of the project approval, the costs to renovate/rehabilitate the existing four (4) units were unknown. Staff informed the Council that we would be meeting with the property owners and City Building Division to conduct site inspections to determine the extent and costs of the improvements. Staff has completed these tasks and the costs of the improvements for the rehabilitation of the four (4) existing units is \$200,000 (approximately: \$50,000/per unit).

In return for the financial assistance to the developer from the Redevelopment Agency, the developer has executed a Regulatory Agreement (November 2003) to guarantee long-term affordability (20 years) for the four (4) units.

Based on the Building Division's site inspections, most of the costs for the improvements will address health and safety building code violations. A summary of the proposed improvements includes the following:

- Service Entrance- 200 amp main metered electrical panels, boxes and breakers
- Stair Entrance-Wooden stairs to steel and precast, rebuilt landing at second floor
- Wall Heaters-Replace wall heaters
- Roofing- 40 year, TL dimensional/composition shingle
- Windows-Per code, double-gazed, Low "E" windows
- Ground Fault Circuit Interrupter-Install in kitchen and bath areas
- Exterior Painting

The City issued bids on this project to five (5) contractors, with West Coast Builders (the lowest bid), selected to perform the rehabilitation improvements. West Coast Builders is one of the City's CDBG contractors for the Single Family Rehabilitation Loan Program and has an excellent working relationship with the City's Building Division. This project is part of the on-going improvements in the neighborhood (Selwyn Community Park) to improve the physical appearance and enhance the quality of life for the residents. Sufficient funds are available in the 20% low-income housing set-aside allocation to fund this project.

Included in the Agency's agenda packet is a copy of the previously executed Regulatory Agreement.

Recommendation: Approve the amount not-to-exceed \$200,000 for the renovation and rehabilitation of the four (4) existing apartment units at 1129 & 1143 Edsel Drive and 1116 & 1124 Shirley Drive from the Redevelopment Agency 20% Low-Income Housing Set-Aside Fund.

***RA7. Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals: North Main Street Development Project Demolition and Abatement at 94 to 130 Winsor Street, East Garage Land Acquisition & Site Preparation, Project Nos. 8154 & 8169 (Staff Contact: Mark Rogge, 586-3403)**

Background: Plans and specifications for the subject project have been completed in accordance with the approved five-year Capital Improvement Program (CIP). This phase of the project includes demolition and removal of the buildings and other structures at 94 to 130 Winsor Street in preparation for construction of the new library and Midtown East parking garage.

The Engineer's estimated for the work is approximately \$100,000, and funds are available in the project budgets. A copy of the project specification title sheet is included in the Council's agenda packets. Complete plans and specifications are available for review in the office of the City Engineer.

Recommendation:

1. Approve plans and specifications
2. Authorize advertising for bid proposals.

***RA8. Authorize City Manager To Execute Agreement Amendment: Olivia Chen Consultants, Berryessa Pump Station, Project No. 8138 (Staff Contact Doug De Vries, 586-3313)**

Background: On September 18, 2004 the City Council/Agency awarded consultant contract to Olivia Chen Consultants for the design of the improvements and equipment replacement for the Berryessa Pump Station.

Staff recommends that Olivia Chen Consultants perform additional services to design a 2-speed jockey pump, fuel delivery system with leak detection, evaluate additional pump configuration alternatives, revise the pre-purchase and construction packages to incorporate changes, and to provide construction and bidding support for the project. An agreement amendment is proposed for these additional services. Staff has negotiated a scope and fee for these services not to exceed \$51,000, which is considered reasonable for the work, and which includes a contingency allowance for \$5,420. There are sufficient funds in the project budget to cover this additional expense.

Recommendation: Authorize the City Manager to execute the agreement amendment with Olivia Chen Consultants in the amount of \$51,000, subject to approval as to form by the City Attorney.

RA9. Agency Adjournment

XVII. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

4. Mayor's Appointments to the Council Open Government Subcommittee (Contact: Mayor Esteves, 586-3029)

Background: Mayor Esteves will make the appointment of two City Councilmembers to serve as the new Open Government Subcommittee.

Recommendation: Move to approve Mayor Esteves' appointments.

5. Approve Mayor's Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)

Background: Several City Commissions have vacancies for Commissioner and Alternate seats. Mayor Esteves recommends the following Milpitas residents to be appointed to Commissions noted below.

Community Advisory Commission

Appoint Michael Queenan from Alternate #1 to a 3-year unexpired vacant term that expires January 2007.

Appoint Nelson Villegas as Alternate #1 from Alternate #2
Appoint Reena Choudhury as Alternate #2 from Alternate #3
Appoint Oliver Wan as Alternate #3

One vacant Alternate #4 remains.

Public Art Committee

According to Ordinance No. 271, all members of the Arts Commission will serve as members of the Public Art Committee. All terms on the Public Art Committee are for three year terms, expiring October 2008.

Appoint Carla Ann Moss as the member-at-large.

Appoint the following three members from the Alliance for the Arts: Larry Voellger, Elena Lawson and Julie Cherry.

Recommendation: Motion to approve the Mayor's Appointments.

Parks, Recreation, and Cultural Resources Commission

- * **6. Approve Two (2) Organizational Youth Sport Grant Requests (Staff Contact: Kerrilyn Ely, 586- 3231)**

Background: On September 20, 2005 the Milpitas City Council approved and appropriated \$8,000.00 for the Youth Sports Assistance Fund for the 2005-2006-budget year. Included in the Council agenda packet for review and consideration are two (2) Youth Sports grant applications:

One (1) Organizational Youth Sports Assistance Fund Application was received from **Red Devil's Youth Baseball Program, requesting \$1,000.00** to offset travel expense costs for regional baseball tournament held in Las Vegas, Nevada on October 28- 30, 2005.

One (1) Organizational Youth Sports Assistance Fund Application was received from **Southpawprep, requesting \$1000.00** to offset the cost of purchasing team traveling first aid kits, sports tape and a electric ball pump for practices and games.

Both applicants meet the eligibility for the grant process. Staff has reviewed the items requested and has found that the requested items meet the application guidelines, under the section, "Acceptable Funding consideration will be given, page 2 item #3 states; "To one time activities or capital equipment purchases designed to address a need or problem which organization cannot routinely finance".

The Parks, Recreation, and Cultural Resources Commission (PRCRC) reviewed the applications on October 3, 2005 and recommended both applications be forwarded to council for approval. There is currently a **balance of \$8,000.00** in the 2005-06 Youth Sports Assistance Fund.

Recommendation: Approval of two (2) Youth Sports Assistance Grants as recommended by the PRCRC leaving a grant fund balance of **\$ 6000.00** for the remainder of the fiscal year.

XVIII. NEW BUSINESS

- 7. Approve Two Amendments to City Council Handbook by Motion (Staff Contact: Steve Mattas, 586-3040)**

Background: At its meeting of June 7, 2005, the Council provided staff with direction to prepare an Appendix to the City Council Handbook listing all City Commissions, Boards, Committees and other policy bodies, including information as to the number of members and a description of each policy body's primary function. The attached draft Appendix "G" responds to this request.

Also included for your consideration is a draft amendment to the Council Handbook section addressing the continuance of unaddressed agenda items. During the Council meeting of August 2, 2005, Councilmember Livengood requested that the Handbook be amended to provide that should the Council not address an item placed on a regular Council meeting agenda, the item

should be automatically carried over to the “Unfinished Business” section of the next regularly-scheduled Council meeting. The attached amendment would add language to page 21 of the Council Handbook to incorporate this as a regular practice of agenda preparation.

Recommendation: Motion to approve the proposed two amendments.

8. Approval of the Proposed Terra Serena (KB Homes) Public Park Equipment, Fixtures and Furnishings for Alvarez and Elm Parks (Staff Contact: Staci Pereira, 586-3278)

Background: The City Council approved the KB Homes Residential Development, also known as Terra Serena, on January 8, 2005. The project includes the development of 683 residential units (single family, townhome and condominiums) on 35 acres on S. Abel Street near Curtis Avenue. Public improvements associated with the development include the construction of three new public parks, known as Hetch-Hetchy Park, Alvarez Park (also known as Penitencia Park) and Elm Park. The layout of the parks were approved as part of the project approval, however, Condition No. 35 required the details of the park equipment, fixtures and furnishings for the two city-dedicated parks (i.e. Alvarez and Elm Parks) to be reviewed and approved by the Parks, Recreation and Cultural Resources Commission (PRCRC) and the City Council.

The park features proposed in the attached booklet include drinking water fountains, benches, trash receptacles, shade structures, restrooms, play structures, lights, picnic tables and tennis and basketball court amenities. City staff, including Planning, Recreation, Engineering and Park Maintenance has reviewed the proposed equipment and fixtures and recommends minor conditions to ensure the design and appearance of the restrooms compliment the new residential buildings.

The Parks, Recreation, and Cultural Resources Commission (PRCRC) reviewed the proposal at their meeting on October 3, 2005. The Commission recommended approval to the City Council with the addition of a third condition that the applicant incorporate a cross-section of the wood from the Elm trees into the Elm Park display. However, the applicant indicated to the Commission the Elms that have been removed thus far have hollow centers and extensively decayed wood, as shown in the Arborist’s Inspection Summary of the Elms included in the Council’s agenda packet.

Given the extensive decay, the applicant has also expressed concern with the ability to construct the Elm tables and benches approved in the Historical Elm Tree Display, known as Concept D (refer to attachment). The Council approved this concept on April 5, 2005, which included uplifting the new Elms in recognition of the original Elms. Recognizing the state of the trees, staff would recommend a condition of approval in lieu of the PRCRC’s condition, to work with the applicant to implement all of the elements of Concept D and if the Elm benches and tables are determined not to be possible, to display a section or piece of the original Elms in some manner.

Recommendation: Approval of the proposed public park equipment, fixtures and furnishings for the Alvarez and Elm Parks subject to the following three conditions:

1. The pre-fabricated restrooms shall use the same concrete tiles and be painted to compliment the approved residential buildings.
2. The applicant shall provide the Public Works Department (Park Maintenance) with 10 additional roof tiles (“Lifetile” Concrete “S” tile, Class B) for future repairs.
3. Implement all of the elements of Concept D and if the Elm benches and tables are determined not to be possible, to display a section or piece of the original Elms in some manner.

* 9. **Proposed 2006 Special Events Calendar (Staff Contact: Samu Tiumalu, 586-3222)**

Background: Historically the City Council has approved the special events planned by Recreation Services. Attached you will find the proposed 2006 Special Events Calendar. Event details including time, date, event specifics and location have been included with the calendar.

Recommendation: Approve the 2006 Special Events Calendar.

* 10. **Approve Encroachment Agreement Between the City of Milpitas and LSI Logic Corporation For the Installation of Fiber Optic Network Facilities Within Public Right of Way, Project No. 3137 (Staff Contact: Mehdi Khaila, 586-3327)**

Background: LSI Logic Corporation is requesting to enter into an Encroachment Agreement with the City to install fiber optic network facilities within public right-of-way to connect their existing facilities within the Oak Creek Business Park.

Recommendation: Approve Encroachment Agreement with LSI Logic Corporation for installation of fiber optic network facilities within public right of way and authorize the City Manager to execute the same, subject to the approval of City Attorney as to form

* 11. **Approve Proposed Changes to Recreation Services Program's Refund Policy (Staff Contact: Kathleen Yurchak, 586-3209)**

Background: Recreation Services current refund policy for classes has not been updated in over 10 years. Staff has researched the refund policies and service fees of the following city's: Fremont, Union City, San Ramon, and Walnut Creek to ensure that our proposed changes reflect the standard of the other surrounding communities. Included in the Council's packet is detailed memo with additional background information.

Staff concluded that an increase in service charge fees from \$5 to \$10 is comparable to other cities refund processing fees. Staff is also proposing a separate Preschool Program refund policy, due to the need to be flexible with children who may have individual needs, which may not allow them to be ready to enter into the Preschool Program. In addition, staff is recommending that no changes be made to the refund policy for Senior programs, as identified in the attached memo.

Should the changes be approved, the amended Recreation Services Refund Policy and Rainbow Theatre Policy will become effective January 12, 2006, in the Spring Activity Guide. The Preschool Refund Policy will become effective March 25, 2006, in the Summer Activity Guide.

Recommendation: Approve proposed changes to Recreation Services Program's Refund Policy as recommended by Recreation Services staff.

XIX. ORDINANCES

* 12. **Waive Second Reading of the Title and Adopt Traffic Ordinance 43.201: Amendment to the Traffic Code, to Change the Speed Zones Boundaries and Speed Limits on Main Street Between Railroad Court and Montague Expressway (Staff Contact: Jaime O. Rodriguez, 586-3335)**

Background: Ordinance 43.201 was initiated by staff upon completion of traffic studies on Main St. The purpose of the ordinance is to reconfigure the speed zone boundary limits and posted speed limits on Main St as follows to be more consistent with existing traffic patterns.

<u>Street</u>	<u>Proposed Speed Zone Segment</u>	<u>Proposed Speed Limit</u>
N. Main St	Railroad Ct to Carlo St	30 MPH

S. Main St	Carlo St to Curtis Av	30 MPH
S. Main St	Curtis Av to Abel St	35 MPH
S. Main St	Abel St to Montague Exp	35 MPH

The first reading of the new ordinance occurred during the October 4, 2005 council meeting.

Recommendation:

1. Waive second reading beyond title.
2. Adopt traffic ordinance 43.201.

XX. RESOLUTIONS

- * 13. Adopt a Resolution for Emergency Water Supply and Approve an Agreement for a Permanent Water Connection with Spring Valley Heights Association (Staff Contact: Darryl Wong, 586-3345)**

Background: Spring Valley Heights [SVH] is served by a well water supply whose capacity has diminished. The resulting system has been determined to be inadequate to meet the health and safety needs of the subdivision and the State Department of Health Services has required SVH to acquire an additional water supply. As a result, SVH has requested 1) permission for short-term emergency water supply from the City of Milpitas, and 2) a long-term permanent connection to the City of Milpitas water system.

Emergency Water Supply: Emergency water supply to SVH was approved by Council on October 1, 2002 with extensions on January 21, 2003 and December 16, 2003. Water purchased from the City water system is supplied by tanker trucks to SVH on an as needed-basis. The current extension expires on December 31, 2005. This request is for another (third) emergency water extension to December 31, 2007. Under Ordinance No. 38-742, water supply (emergency or permanent) can be provided upon approval by the City Council, and if the following four criteria are met:

1. An urgent public health or safety concern exists.
2. An independent certified professional engineer determines that City supply is the only economically justifiable solution to the health and safety concern.
3. The subdivision map for the site in question had been recorded on or before November 3, 1998.
4. The applicant is responsible for the cost to provide service.

Staff has determined that all of the above criteria continue to apply and the emergency water supply will not affect the ability of the Milpitas distribution system to meet customer demand. A summary of some of the water service milestones that have occurred may be found in the Council packet.

Permanent Connection to Milpitas Water Distribution System: Council tentatively approved a permanent connection to the Milpitas Water Distribution System on October 7, 2003 as part of an application for the Local Agency Formation Commission of Santa Clara County (LAFCO) approval for water service (LAFCO concurrence to provide service is required since one parcel of the SVH distribution system is located within the County lands). The agreement stipulates that the construction and supply of water will be entirely at SVH cost. The tentative agreement has been refined to include alignment and delineation of extent of private and public lines alignments, and right-of-way provisions within County and City areas, among others. The proposed agreement may be found in the Council's packet.

Recommendation:

1. Approve resolution for emergency water supply until December 31, 2007 or until a permanent water connection is constructed, and water is supplied under a water supply agreement.
2. Approve water supply agreement with Spring Valley Heights Association, subject to approval as to form by the City Attorney.

*** 14. Adopt Resolution of Intention to Vacate a Portion of Weller Lane and Winsor Street for Construction of the North Main Street Improvements, Library, and the Midtown East Parking Garage (Staff Contact: Steve Erickson, 586-3414)**

Background: The design of the new library and the Midtown East parking garage on Weller Lane and Winsor Street is currently underway. The new library and east garage will be located in areas currently designated as public streets. Construction of the library and garage improvements will require the vacation and closure of portions of Weller Lane east of North Main Street, and the northern portion of Winsor Street, as shown on the attached Plat and Legal Description.

The vacation is for roadway easement, roadway dedication and utility easement purposes. New public service utility easements and an easement for existing Pacific Bell transmission facilities will be created within portions of the streets to be vacated.

A Mitigated Environmental Impact Report which covered the proposed vacations was adopted by City Council on January 4, 2005, and the Planning Commission at its meeting of September 28, 2005 found the vacations to be in conformance with the General Plan.

Staff recommends that Council adopt a Resolution of Intention to vacate portions of the streets as described, and set the date for a public hearing at the November 15, 2005 City Council meeting.

Recommendation: Adopt a Resolution of Intention to vacate portions of Weller Lane and Winsor Street, and to hold a Public Hearing for November 15, 2005.

XXI. BIDS AND CONTRACTS

*** 15. Award Construction Contract and Approve Budget Appropriation City Reservoir Evaluation & Upgrade, Project No. 7091, San Jose Water Company (Staff Contact: Doug De Vries 586-3313)**

Background: On August 2, 2005, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals. This project involves upgrades to the Gibraltar and Ayer Reservoirs, needed to optimize operations as well as upgrades for the conversion to chloramine disinfection by the San Francisco Public Utility Commission. The improvements include installation of pipes, pipe supports, and TideFlex® valves to insure proper circulation of water in the reservoirs in order to maintain a high level of water quality.

The project was advertised and sealed bid proposals were opened on September 29, 2005. The Engineer's Estimate for the work was \$360,000. The bid proposals ranged from \$321,385.16 to 496,390, and the lowest responsible bidder is determined to be San Jose Water Company.

A budget appropriation in the amount of \$200,000 is required in order to award this project, and funds are available from the Water Fund.

Recommendation:

1. Approve a budget appropriation for \$200,000 from the Water Fund into City Reservoir Evaluation and Upgrade, Project No. 7091

2. Award Construction Contract to San Jose Water Company in the amount of \$321,385.16

- * 16. **Authorize City Manager to Approve Debris Box Agreement With Pagnini's Inc. (Staff Contact: Darryl Wong, 586-3345)**

Background: In accordance with Title V, Chapter 200 of the Milpitas Municipal Code, debris box haulers are required to apply for an agreement authorizing the hauler to engage in the business of collecting and disposing of non-organic solid waste and/or construction and demolition debris produced, kept or accumulated within the city limits of Milpitas. The haulers are also required to pay the City a compensatory fee equal to 12% of the total gross receipts actually collected or received. Staff has reviewed the most recently submitted application and recommends approval of the agreement.

Recommendation:

Authorize the City Manager to approve a debris box agreement with Pagnini's Inc., subject to approval as to form by the City Attorney.

- * 17. **Extend the Coast Landscape Management, Inc. Contract for the McCarthy Ranch Assessment District for a Second Year (Staff Contact: Chris Schroeder, 586-3161)**

Background: During August of 2004, staff issued a Request for Proposal for annual landscape maintenance services on the McCarthy Ranch Assessment District 95-1. The RFP for these services was issued to 14 landscape maintenance companies on Purchasing's bidders list. A five (5) panel evaluation committee selected Coast Landscape Management, Inc. and a one (1) year contract with two (2) one (1) year options was awarded. The base contract expired on July 31, 2005. Staff is now requesting that the first option year be exercised.

(There are sufficient funds for these services in the Public Works Operating Budget.)

Recommendation: Authorize the City Manager to execute an amendment to the contract with Coast Landscape Management to exercise the first option year in an amount not to exceed \$76,074.00, for landscape maintenance services at the McCarthy Ranch Assessment District 95-1, subject to approval as to form by the City Attorney.

XXII. CLAIMS AND DEMANDS

- * 18. **Approve Payment Requests: Miscellaneous Vendors / Contractors (Staff Contact: Chris Schroeder, 586-3161)**

Background: In accordance with direction given by City Council at its August 15, 1995 meeting, Purchasing has prepared the following list of purchasing requests over \$5,000.00 for approval:

1. \$9,168.29 to Jam Services for LED traffic lights that had to be replaced due to a lightening strike at the Tasman/Alder, I-880 north bound and south bound off ramps. The work was performed as an emergency under section I-2-5.04 of the Municipal Code "Emergency Authority of Purchasing Agent". (Funds are available in the Public Works Street Maintenance Operating Budget for this purchase).
2. \$6,719.95 to Clean Source for the purchase of assorted custodial supplies. (Funds are available from the Public Works Building Maintenance Operating Budget for this purchase.)

3. \$6,700.00 to J.J.R. Construction, Inc. for repairs to the curb and hand railing at 40 N. Milpitas Blvd. In July, the driver of a single vehicle lost control and ran off the road damaging the curb and hand railings next to the bus stop just north of the library parking lot. The City will seek reimbursement for the work done by J.J.R. Construction, Inc. (Funds are available from the Public Works operating budget for this service.)

Recommendation: Approve three payment requests.

XXIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, NOVEMBER 1, 2005, AT 7:00 P.M.**